



Security Council

Distr.
GENERAL

S/25095
12 January 1993

ORIGINAL: ENGLISH

LETTER DATED 12 JANUARY 1993 FROM THE PERMANENT REPRESENTATIVE
OF THE SUDAN TO THE UNITED NATIONS ADDRESSED TO THE PRESIDENT
OF THE SECURITY COUNCIL

Further to my letter dated 11 instant (S/25090), I have the honour to
enclose herewith, for your attention, a third message from His Excellency,
Mr. Ali Ahmed Sahloul, Minister of Foreign Affairs of the Republic of the
Sudan, No. MFA/EO/1/1/16 dated 11 instant, concerning the border dispute
between the Sudan and Egypt.

I would be grateful if you could have this message circulated as a
document of the Security Council.

(Signed) Ahmed SULIMAN
Permanent Representative

Annex

[Original: Arabic]

Letter dated 11 January 1993 from the Minister for Foreign
Affairs of the Sudan addressed to the President of the
Security Council

I wish to refer to the letter dated 3 January 1993 from the Minister for Foreign Affairs of the Arab Republic of Egypt addressed to you, following our note to you dated 27 December 1992.

That letter comprises six major points, in addition to a three-paragraph introduction and a conclusion. We wish to comment on its contents as follows:

I. The Minister for Foreign Affairs of the Arab Republic of Egypt cites "allegations aimed at prejudicing Egypt's sovereignty over its territory". Perhaps the contents of our letter addressed to you on 7 January and the details that it provided suffice to refute the Egyptian assertion. We do not doubt that all Members of the United Nations are aware that the Sudan has no need to have designs on what the Egyptian Minister's letter claims is Egyptian territory. However, as you know, the issue is one of truth and not one of need. Accordingly, we shall defend our cause by all political and legal means. With regard to the concern of the Government and people of Egypt for the historic relations that link the peoples of Egypt and the Sudan, the actions of the Government of Egypt in Halayib governorate are not in line with this theme. The truth is that the Sudan is the one that, over the years, has been concerned to preserve the close ties that link the two peoples of the Nile Valley in the Sudan and Egypt. Perhaps the most eloquent proof of what we say is the fact that the Sudan reported in detail all the violations committed by the Government of Egypt in the Sudanese governorate of Halayib since the beginning of 1991 in our letter dated 7 January 1993. This is patience that is due, first and last, to the Sudan's concern that Egypt should be alerted to the consequences of its violations of Sudanese territory and its grave impact on the historic relations which link the peoples of the Sudan and Egypt and about which Egypt now claims to be concerned.

The Sudan greatly prizes Sudanese-Egyptian relations on grounds of history, geography and common interest, but the actions taken by the Egyptian Government inside Sudanese territory recently are a blatant violation of the sovereignty of the Sudan and a clear breach of the fundamental principles of the United Nations, international law and international legitimacy. All these notwithstanding, the Sudan has, at this stage, been satisfied with taking the one specific step of informing you and the esteemed members of the Security Council of the grave developments that threaten peace and security in the area, in order that you might make the necessary efforts to ensure the immediate withdrawal of the military and civilian Egyptian forces from Halayib governorate and restore the situation there to its former state, as well as circulating our note to all States Members of the international Organization

/...

in view of their concern for the principles of the Charter and the sovereignty of law. On this understanding, the Sudan thus affirms its respect and esteem for the historic ties between the Sudan and Egypt within the framework of total respect for rights and obligations in accordance with the norms, principles and provisions of international law.

The letter of the Egyptian Minister for Foreign Affairs claims in the second paragraph of its introductory part that "the Sudanese Government has, in recent times, persisted in stirring up a number of problems for non-objective ends that are at variance with the nature of the relations that link the two fraternal peoples ... in ways that might be interpreted as the exploitation beyond reasonable measure of the feelings of brotherhood and friendship harboured by the Egyptian people for the fraternal Sudanese peoples". Since the letter of the Egyptian Minister for Foreign Affairs did not specify for the international Organization the problems that it referred to - and did not mention one single problem - the Sudan does not believe that there are any grounds for responding to such unfounded allegations. Our comment on the second paragraph of the letter of the Egyptian Minister for Foreign Affairs applies equally to the third paragraph of the introductory portion, as a report of something that we accept and acknowledge. That is what prompted us to refer the matter to you and the States Members of the international Organization.

II. This is what is stated in the introductory part of the letter of the Minister for Foreign Affairs of Egypt. Turning to the six main points contained in the body of the letter, we should note that most of them are of a mainly legal character, which quite clearly confirms the reiterated view of the Sudan that the dispute over the boundary between the two countries is a legal dispute and not a political one. Consequently, it should - indeed must - be dealt with by the legal means proper to the settlement of international disputes, beginning with negotiations and ending with arbitration or an appearance before the International Court of Justice.

The elementary principles of the legal treatment of any border dispute impose on the two parties at dispute the duty to respect the status quo at the time when the dispute arose. However, it is an established fact that Egypt, by the military and civilian measures it has taken in Halayib governorate, has disregarded and disavowed the elementary principles of legal treatment of the question, as we have explained in detail in our note to you dated 6 January. We are revealing no secret when we say that the military and civilian measures taken by Egypt inside the Sudanese border may be in line with some of its positions. We noted that, since Egypt raised the boundary question again after keeping silent about it for many years, it has rejected any suggestion on the part of the Sudan that it was essential to settle the dispute by arbitration or before the International Court of Justice, should the two parties fail to resolve it through negotiations. In view of this fact, which Egypt disregarded because of the military and civilian measures that it had taken inside the Sudan's border and on account of its lack of commitment to legal treatment of the question, the Sudan had no course but to resort to the Security Council as the organ entrusted with the maintenance of international

/...

peace and security in the United Nations, as we saw it at this stage. The Sudan also has no course but to reply to and comment briefly on the points contained in the letter of the Egyptian Minister for Foreign Affairs because we fully realize that the Security Council is not the competent organ for the presentation of legal arguments. That task was assigned by the United Nations Charter to the International Court of Justice. In this context, the Sudan reaffirms its wish to deal with the border dispute existing between the two countries by judicial legal means (the International Court of Justice) or by quasi-judicial legal means (international arbitration) provided for in the United Nations Charter. The Sudan hopes that Egypt will announce clearly its consent to such procedure provided that it considers that it has a legal claim.

III. The Sudan agrees with the text of article I of the Agreement of 1899, set forth in the first of the six Egypt points, but it disagrees totally with the qualification of the text as clearly demarcating the Sudan's northern "international" boundary with Egypt, as Egypt asserts. The text did not use the word "boundary". Indeed, the word "boundary" did not occur anywhere in the above-mentioned Agreement. Obviously, that was not without meaning, for the words "international boundary" were not applied at that time. Egypt was not a State but an Ottoman vilayet, on the one hand, and a de facto British protectorate, on the other, while the legal status of the Sudan was also unclear. To be brief, the 22nd parallel of latitude was an arbitrary line in the context of the conditions that imposed it and subsequent behaviour. Moreover, the Agreement of January 1899 was concluded for one basic purpose, namely the future administration of the Sudan, as its title indicates. Egypt claims under this point that "this Agreement has to this date remained the sole international document that defines the international boundary between the Sudan and Egypt. The Agreement has not been amended, except by the Supplementary Agreement on the status of the port of Suakin". This claim is easily refuted, because the Agreement, as we have said, does not speak of an "international boundary" but states that the 22nd parallel too is merely an administrative boundary, and the Sudan therefore agrees that it represents a fundamental legal "basis" in any legal treatment of the boundary dispute between the two countries, as well as representing one stage in the development of the Egyptian-Sudanese border towards the later stage of an international border. There are many international instruments relating to the Sudan's boundary with Egypt, including Egypt's acknowledgement of Sudanese independence without any reservation on its part. There are the documents of the International Commission that oversaw the holding of the first democratic elections in the Sudan in 1953. It is an established fact that the provisions of this Agreement were amended and that the amendment, as we shall see later, was confirmed. Because of all this, the claim that the 1899 Agreement is the "sole international" instrument that defines the boundary between Egypt and the Sudan is impermissible.

IV. The second point in the letter of the Minister for Foreign Affairs for Egypt deals with the administrative changes made to the 22nd parallel in March 1899 and November 1902, which were approved by the Egyptian Minister of the Interior at that time, who issued them in executive decrees. Egypt wanted to reduce the significance of those two adjustments, but that was a surprise

/...

for the Sudan, because the two above-mentioned changes actually constitute the essence of the current legal dispute about the boundary, inasmuch as they were the first building-blocks in the boundary that was consecrated by time in a way that obliged Egypt to accept it without contestation in many legal instances, which make it incumbent on Egypt to express any challenge if it believes that it is entitled to do so.

V. Under its third point, Egypt claims that it has exercised its "sovereignty" uninterruptedly over the administrative area north of the 22nd parallel from the signing of the 1899 Agreement up to the present and that this exercise of sovereignty has assumed numerous forms, principally the following:

1. "An Egyptian security and administrative presence in the area in all forms". This is merely an allegation. The fact is that Egypt had no security or administrative presence in Halayib governorate until 1958, the date on which Egypt stirred up a dispute over the boundary for the first time. It then remained silent about it for nearly 30 years until it recently raised the matter again. If there was an Egyptian security and administrative presence, it was that established following the 1967 war, which consisted of Egyptian observer posts to spot low-flying Israeli aircraft, which the Sudan agreed to on the basis of its national commitment, so that Egypt should not be taken by surprise from the direction of the Red Sea. It is amazing that Egypt should regard the facilities accorded to it by the Sudan as an indication of the exercise of its sovereignty over Sudanese territory.
2. "Egypt's responsibility for granting concessions for drilling for minerals in the above-mentioned area, in addition to Egypt's engagement in mining activities in the area from 1915 up to the present". Although Egypt was influential in mining in part of the area, that was due to the fact that the Sudan did not have the organization and related skills for such activity, to be precise. However, the position has changed completely with the change of circumstances.
3. "The official maps of Egypt, from the signature of the Agreement up to the present, show that the 22nd parallel represents the international boundary line between Egypt and the Sudan", according to the letter of the Egyptian Minister for Foreign Affairs. It is self-evident that this Egyptian assertion signifies nothing more than a legal viewpoint regarding the dispute about Halayib governorate. In any case, Egypt's basis on this point lacks credibility and accuracy. The official maps of Egypt since the signature of the 1899 Agreement do not confirm that the 22nd parallel represents the international boundary between Egypt and the Sudan. Egyptian maps since 1899 indicate otherwise. They show both the "political boundary" and the "administrative boundary". It is self-evident that the "political boundary", which is a geographical term and not a legal one, does not necessarily mean "international boundary". What, I wonder, would Egypt say about the official Sudanese maps that continue to show what Egyptian maps regard as the "administrative boundary" as being the "international boundary" between the Sudan and Egypt? It is true that maps, from the legal viewpoint, can be

/...

evidence of topographical incidents or evidence backing or supporting territorial claims. The important question is what kind of map can serve such purposes?

VI. The fourth point in the letter of the Egyptian Minister for Foreign Affairs asserts that "the Sudan provoked the first crisis concerning the Egyptian-Sudanese boundary in 1958" and that Egypt postponed discussion of the problem referred by the Sudan to the Security Council, following the undertaking by the Sudan not to take participation of the Sudanese population of the area in the Sudanese elections of 1958 as evidence confirming its sovereignty over those areas. The fourth point also alleges that "Egypt did not withdraw any forces from this area" in 1958. All these assertions are a factual issue. Although the Security Council is not the appropriate forum for going into the details, the Sudan will, at this stage, be satisfied with a reference back to the text of the statement issued by Egypt and read out by its representative before the Security Council in 1958.

VII. The fifth point in the letter of the Egyptian Minister for Foreign Affairs deals with the meetings of the Sudanese-Egyptian Joint Commission on the boundary dispute. It claims that Egypt was surprised by the Sudanese Government's submission of a note to the President of the Security Council, while awaiting the third meeting of the Commission, scheduled to be held at Khartoum in January 1993. It also claimed that the Sudan's action is a pretext for ceasing participation in the work of the Joint Commission aimed at settling differences directly and by friendly means. Everything under this point is no more than sophistries. It is true that the third meeting of the Commission was scheduled to be held in January at Khartoum, but would it have been logical to hold this meeting following Egypt's occupation of sites inside the Sudanese boundary two weeks after the end of the second meeting of the Commission, held at Cairo. It was Egypt that blasted the third meeting of the Commission, having violated the first clause of the decisions of the second meeting, namely, respect for the current boundary situation.

VIII. The sixth point in the note of the Egyptian Minister for Foreign Affairs states that the reference in the note of the Minister for Foreign Affairs of the Sudan to "blatant aggression committed by the Egyptian forces that infiltrated ... on 9 December 1992", as contained in our above-mentioned note to you, is unacceptable, on the grounds that "never, at any time, has there been an Egyptian presence in Sudanese territory south of the 22nd parallel" and that "the Sudan's allegations that Halayib governorate is Sudanese territory rests on no legal, historical or factual basis". It is self-evident that such misrepresentation is impermissible in the administration of international relations. What is established is that Egyptian forces recently penetrated into the territory of Halayib governorate, which is located north of the 22nd parallel, and that this is the territory that is the subject of the boundary dispute existing between the Sudan and Egypt. Does Egypt's occupation of the disputed territory with military forces constitute anything other than blatant aggression that is by all criteria a threat to international peace and security in the area? We have seen fit to revert specifically to the contents of the letter of the Egyptian Minister for

/...

Foreign Affairs addressed to you on 3 January 1993. As we have proven, the Egyptian note is full of sophistries and contradictions. Perhaps the best illustration of this is what it states about the meetings of the Commission on the boundary dispute. Moreover, it confirms the presence of a boundary dispute in many of its paragraphs and then concludes by stating that the Egyptian military penetration into the disputed area "is a natural thing in the same category as Egypt's exercise of its sovereignty over its territory". It is truly strange that the Egyptian Minister for Foreign Affairs concludes his letter by the statement: "Egypt's position has been and remains to affirm the necessity of discussing any difference with the Sudan within the framework of full commitment to the provisions and principles of international law and of the covenants and agreements endorsed by the two parties."

The Sudan knows well that legal debate has its place in organs and mechanisms other than the Security Council, and we have therefore not wished to present our legal arguments beyond the extent necessary to reply to all the Egyptian statements. Of course, we have not presented the evidence on which we base our case, because of our full conviction that the boundary dispute existing between the Sudan and Egypt is a legal dispute. The two States will not be able to deal with it before the withdrawal of the Egyptian military and civilian forces from Halayib governorate and the restoration of the situation to its former state. We have great confidence that you will make the necessary efforts to ensure the achievement of this objective.

Once again, I take this opportunity to convey to you the assurances of my highest consideration with a request that you have this letter circulated to the esteemed members of the Security Council and also to the States Members of the international Organization.

(Signed) Ali Ahmed SAHLOUL
Minister for Foreign Affairs
of the Republic of the Sudan
